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CORP., § 272; *I THOMPSON, CORP.*, § 447; *TIEDEMAN, LIM. POLICE POWER*, 191; *Toledo & C. R. Co. v. Jacksonville*, 67 Ill. 37, 16 Am. Rep. 611; *Interstate Comm. Comm. v. Chicago & G. W. Ry.*, 209 U. S. 108, 118; *State v. Addington*, 12 Mo. App. 214; *Southern etc. R. Co. v. Bedford*, 165 Ind. 272, 75 N. E. 268; *ELLIOTT, RAILROADS* (Ed. 2), §§ 664, 675, 676, 682.

**SALES—BREACH OF NON-FRAUDULENT EXPRESS WARRANTY—RIGHT OF BUYER TO RESCIND EXECUTED SALE.**—In an action on a promissory note given for a horse, the answer set up facts showing an express warranty, breach thereof, and rescission on the buyer's part. *Held*, demurrable on the ground that, in absence of fraud or a provision for the return of the property, breach of warranty gives the buyer no right to rescind an executed sale. *La Grange v. Coyle et al.* (Ind. 1912) 98 N. E. 75.

In accord with the principal case see *Hoover v. Sidener*, 98 Ind. 290; *Owens v. Sturges*, 67 Ill. 366; *Hutchinson Lumber Co. v. Dickerson*, 127 Ga. 328; and cases cited in *WILLISTON, SALES*, § 608. Massachusetts and several other States allow such rescission. *Bryant v. Isburgh*, 13 Gray 607; *Rogers v. Hanson*, 35 Iowa 283, and see note in 27 L. R. A., N. S. 921. But the buyer must put seller in *statu quo*. *White v. Miller*, 132 Iowa 144, 8 L. R. A. N. S. 727 and note. Prior to the passage of the UNIFORM SALES ACT in 1911 the point was undecided in New York. *Day v. Pool*, 52 N. Y. 416; *Isaacs v. Wanamaker*, 127 N. Y. Supp. 346. The SALES ACT allows rescission. The English SALES OF GOODS ACT allows it only if the warranty amounts to a condition. A very similar doctrine may be found in *Joslyn v. Cadillac Automobile Co.*, 177 Fed. 863.

**SALES—RIGHT OF VENDOR ON ANTICIPATORY BREACH OF EXECUTORY CONDITIONAL SALE.**—The agreement was that the plaintiff might ship a cream separator, reserving title, and that the defendant should pay for it on or before its arrival. Later the defendant cancelled the order; in spite of this the plaintiff shipped the machine. On the defendant's refusal to accept or pay. *held*, plaintiff should recover the contract price. *Port Huron Machinery Co. v. Hurto* (Iowa 1912) 135 N. W. 31.

The vendee may expressly contract to be liable for the price before either title or possession passes. *White v. Solomon*, 164 Mass. 516. Many cases hold that if the vendor has done all that the contract requires, and the vendee then refuses to accept the goods, the vendor may recover the price, although he has expressly reserved title. *National Cash Register Co. v. Hill*, 136 N. C. 272, 68 L. R. A. 100, and note. These may well be regarded as executed sales with title given back to the vendor as security. The principal case and *Ideal Cash Register Co. v. Zunino*, 79 N. Y. Supp. 504, hold squarely that if the buyer first renounces a contract to sell, the seller may later execute the contract, and recover the contract price. Many cases say this, but usually the sales in question were executed, not executory. *Acme Food Co. v. Older*, 64 W. Va. 255, 17 L. R. A. N. S. 807, and note. The better rule is that when a contract to sell (an executory sale) is broken, the vendor is limited to an action for the difference between the contract price and the value of the chattel. The Uniform Sales Act (§ 63(3)) does not allow recovery of the